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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

BRIAN GAUTHIER,

Plaintiff,

v.

UNIVERSAL AMERICAN  
MORTGAGE COMPANY, LLC, et al.,

Defendants.

2:11-CV-645 JCM (GWF)

**ORDER**

Presently before the court is defendant Universal American Mortgage Company's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(5). (doc. #5). Also before the court is defendant Wells Fargo Bank N.A.'s and its successor by merger, defendant Wells Fargo Home Mortgage's, motion to dismiss (doc. #10), which Universal American Mortgage Company has joined (doc. #14). To date, plaintiff has failed to file a response to either motion.

Pursuant to Local Rule 7-2(b), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

1 In light of the plaintiff's failure to respond and weighing the factors identified in *Ghazali*,  
2 the court finds dismissal appropriate.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Universal  
5 American Mortgage Company's motion to dismiss (doc. #5) be, and the same hereby is, GRANTED  
6 without prejudice;

7 IT IS FURTHER ORDERED that defendants Wells Fargo Bank N.A.'s and Wells Fargo  
8 Home Mortgage's motion to dismiss (doc. #10) be, and the same hereby is, GRANTED without  
9 prejudice;

10 IT IS FURTHER ORDERED that defendants Universal American Mortgage Company, Wells  
11 Fargo Bank N.A., and Wells Fargo Home Mortgage, Inc., are hereby dismissed without prejudice  
12 from this action.

13 DATED July 11, 2011.

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16 UNITED STATES DISTRICT JUDGE  
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